

JRM:dkc 9/27/05

PATENT
Attorney's Matter No. P0925-RERemarks

Applicant respectfully requests reconsideration of the application. Claims 1-18 are finally rejected as being based upon new matter added to the patent for which reissue is sought, namely U.S. Patent No. 5,862,260 (the '260 patent).

As definitively demonstrated in prior statements to the Patent Office, no new matter has been added to the patent. The Applicant has simply added back the same source code listing, called Appendix B, that was originally filed with application 08/649,419 on May 16, 1996 (now issued as the '260 patent) and cancelled during examination of the application.

Appendix B provided on CD-ROM with the reissue application contains no new matter because it is the same as the Appendix B originally filed with Application 08/649,419. No amendments to Appendix B have been, nor are they being proposed in this reissue application. A declaration has already been submitted on November 16, 2004, to confirm that the source code listing on this CD-ROM is the same as Appendix B originally filed with Application 08/649,419.

There are two potential sources for confusion that were addressed in Applicant's May 20, 2005 response:

1. PTO rules require the Applicant to list a creation date for the file on the CD-ROM that includes a source code listing. The date that this file was created and burned to the CD-ROM, namely January 27, 2004, is not the date that the source code listing stored in that file was created. The source code on the CD-ROM was created on or prior to May 16, 1996, and was filed with Application 08/649,419.

2. In the reissue application, Applicant submitted a preliminary amendment that restored text to the specification that was originally filed as part of Application 08/649,419, yet cancelled during examination. This text stated:

"Applicant is preparing a steganographic marking/decoding "plug-in" for use with Adobe Photoshop software. The latest version of this software, presented as commented source code, is included..."

The use of the phrases "is preparing" and "latest version" may have been confusing if construed literally from today's perspective. However, the Examiner should appreciate that this language was written on or before May 16, 1996, and filed as part of Application 08/649,419. Therefore, these phrases refer to source code that was prepared and was the latest version as of May 16, 1996.

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To avoid confusion on these two points, Applicant amended this language in the May 20, 2005 response to reflect that the source code submitted on CD-ROM with the reissue application was written prior to the filing of Application 08/649,419, and is the same as the source code originally filed with that application. Again, no new matter has been added.

Favorable reconsideration is requested to avoid the necessity for an appeal.

The re-issue application is believed ready for allowance. Nevertheless, the Examiner is invited to contact the undersigned if any question remains.

Respectfully submitted,

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